

HOUSE BILL 1385

By Fitzhugh

AN ACT to amend Tennessee Code Annotated, Title 4;
Title 5; Title 6; Title 7; Title 9; Title 13; Title 67,
Chapter 5 and Title 68, to enact the "Tennessee
Food Desert Relief Act."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This act shall be known and may be cited as the "Tennessee Food Desert Relief Act."

SECTION 2. Tennessee Code Annotated, Title 4, Chapter 31, is amended by adding sections 3 through 7 as a new part.

SECTION 3.

(a) The general assembly finds and declares that:

(1) Many neighborhoods in urban areas and communities in rural areas across the state are underserved by grocery stores;

(2) The resulting lack of nutritious, affordable fresh food in these neighborhoods and communities has been linked to higher rates of diet-related diseases, including heart disease, diabetes and obesity;

(3) At the same time, the family farm, which for generations has been the backbone of our state's economy, is facing growing difficulties as many in society choose prepackaged food over wholesome fresh food; and

(4) The high cost and limited availability of financing for development to cure such ills in Tennessee threatens to halt needed development and expansion in certain areas in Tennessee.

(b)

(1) It is accordingly in furtherance of the interests and welfare of all Tennesseans that the Tennessee local development authority be empowered to issue revenue bonds and to make the proceeds available for loans to develop property food desert relief enterprises that private industry alone would be otherwise unable to serve, at interest rates lower than would otherwise be obtainable.

(2) It is intended that the authority be vested with all powers necessary to the accomplishment of these purposes.

(3) For purposes of this part:

(A) "Food desert relief enterprise" means a supermarket or grocery retailer that operates on a self-service basis, having at least fifty percent (50%) of revenue derived from the sale of groceries, produce, meat, baked goods or dairy products, or a farmers market, in an underserved area;

(B)

i. "Low income census tract" means, for metropolitan areas, an area having an unemployment rate greater than one and one-half ($1\frac{1}{2}$) times the national average, a poverty rate greater than twenty percent (20%), a median family income less than eighty percent (80%) of the area's median income, and a population greater than one thousand five hundred (1,500).

ii. For non-metropolitan areas, "low income census tract" means an area having an unemployment rate greater than one and one-half ($1\frac{1}{2}$) times the national average, a poverty rate greater than twenty percent (20%), a median family income less than eighty percent (80%) of the state's or national non-metropolitan median family income, and a population greater than five hundred (500); and

(C) "Underserved area" means a low or moderate income census tract, an area of below average supermarket density or an area having a supermarket customer base with more than fifty percent (50%) living in a low income census tract.

SECTION 4.

(a) The authority may make and undertake commitments to make loans to or deposits with a governmental entity under the food desert relief development loan program for the financing of certain enterprises under terms and conditions that shall:

(1) Require the proceeds thereof to be used by such governmental entity to make loans for food desert relief enterprises; and

(2) Require that no loans made by such governmental entity to finance a single food desert relief enterprise exceed the aggregate principal amount of five hundred thousand dollars (\$500,000).

(b) The authority may invest in, purchase or make commitments to invest in or to purchase, and take assignments of loans made by a governmental entity for the construction, rehabilitation or purchase of food desert relief enterprises. No loan shall be eligible for investment in, purchase or assignment by the authority:

(1) If the loan was initially made more than six (6) months prior to the date of investment, purchase or assignment; or

(2) If the aggregate principal amount of the loan received by a person exceeds five hundred thousand dollars (\$500,000), and in computing that amount a loan received by an individual shall be aggregated with those loans received by such individual's spouse and children, and a loan received by a firm, partnership or corporation shall be aggregated with those loans received by each owner, partner or stockholder thereof.

SECTION 5.

(a) Prior to an exercise of powers conferred by section 4(b), the authority shall:

(1) Require the lender to certify that the loan at the time of making was, is or will be in all respects a prudent investment;

(2) Require the lender to certify that it would not have made the loan if the authority had not agreed to purchase the loan pursuant to section 4(b);

(3) Require the lender to certify, if the principal amount of the loan is two hundred thousand dollars (\$200,000) or more, that the borrower has obtained at least one (1) written declination of credit from a lender in or near the borrower's local community; and

(4) Require that the loan involved be insured by a loan insurer or be guaranteed by a loan guarantor or that the payment of principal and interest on the notes or bonds be insured or guaranteed.

(b) Prior to the exercise of powers conferred by section 4, the authority shall for all loans to be made pursuant to the food desert relief development program for food desert relief enterprises:

(1) Require any type of security that it deems reasonable and necessary;

(2) Authorize the reservation of funds by lenders in such amounts and subject to such conditions as the authority considers reasonable and necessary; and

(3) Require that all food desert relief enterprises for which funds are advanced, loaned or otherwise provided by the authority under this chapter be in compliance with any state or local land use, zoning, subdivision and other laws applicable to the land upon which such enterprise is located or is to be constructed.

SECTION 6.

(a) For the purpose of providing moneys to assist lenders in providing moneys to finance food desert relief enterprises, the authority, in addition to the powers otherwise granted by law, has the power and is authorized to issue from time to time negotiable bonds and notes of the authority.

(b) The proceeds of such bonds and notes may be applied by the authority to the making of loans to or deposits with lenders or the purchase of loans made by lenders as set forth in section 4.

(c) Bonds or notes issued pursuant to this section shall not be issued and sold as part of an issue of bonds or notes of the authority issued pursuant to any other provision of this chapter or other law.

(d)

(1) The authority has the power and is hereby authorized to issue from time to time renewal notes and bonds to pay notes issued in anticipation of such bonds and, whenever it deems refunding expedient, to refund any bonds by the issuance of refunding bonds whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for any other authorized purpose.

(2) Such refunding bonds and renewal notes may be issued without further authorization, such issuance being deemed authorized by the law authorizing the bonds and notes to be renewed, paid or refunded.

(3) The refunding bonds shall be sold and the proceeds applied to the purchase, redemption or payment of the bonds to be refunded.

(e) Each issue of its notes or bonds issued pursuant to this section shall be limited special obligations of the authority payable solely from and secured by amounts

derived by the authority from loans purchased with the proceeds of such bonds or notes, payments made by lenders pursuant to loan agreements with such lenders, or proceeds derived from the certificates of deposit or other obligations of lenders purchased from bond proceeds.

(f) The bonds may be additionally secured by a pledge of any grant, contribution or guarantee from the federal government or any corporation, association, institution or person or a pledge of any money, income or revenue of the authority from any source.

(g) The authority shall not issue bonds and notes under this part in an aggregate principal amount at any one (1) time outstanding exceeding thirty million dollars (\$30,000,000), excluding bonds or notes for the payment or redemption of which there has been or will be set aside and held in trust either moneys or direct and general obligations of or obligations guaranteed by the United States, or obligations secured by such obligations, or any combination thereof, that are or will be sufficient to pay when due the principal or applicable redemption price and all accrued interest thereon and, if such bonds or notes are to be redeemed, for which notice of redemption has been given or satisfactory provision has been made for the giving of such notice.

SECTION 7.

(a) It is an offense for any person to knowingly make, utter or publish a false statement of substance or aid or abet another person in making, uttering or publishing a false statement of substance for the purpose of influencing the authority to make a loan or deposit to finance a food desert relief enterprise or to purchase a loan that finances an food desert relief enterprise.

(b) A violation of subsection (a) is a Class E felony.

SECTION 8. This act shall take effect July 1, 2011, the public welfare requiring it.